

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

LIFEWISE, INC.

Plaintiff,

v.

ZACHARY PARRISH

Defendant.

Case No.: 1:24-cv-00268-HAB-SLC

Chief Judge Holly A. Brady

Magistrate Judge Susan L. Collins

**DEFENDANT'S SECOND REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF
MOTION TO DISMISS COMPLAINT**

Defendant Zachary Parrish respectfully requests that the Court take judicial notice of Exhibits 1 and 2 to this Second Request for Judicial Notice, listed below, submitted in support of Defendant's Motion to Dismiss for Failure to State a Claim ("Motion"), ECF. No. 12 (August 26, 2024), for the limited purpose of opposing Plaintiff LifeWise's request for judicial notice appearing on page 10 of its response brief, ECF No. 23 ("LifeWise Br.").

Exhibit 1 is an archived copy of <https://lifewise.org/curriculum/>, the "Inside the LifeWise Curriculum" page within the "About" section of the LifeWise website, as it appeared on July 8, 2024. The copy of this webpage attached hereto as Exhibit 1 was captured on July 8, 2024 by the Wayback Machine, a service operated by the Internet Archive, a nonprofit digital library. The archived copy of this page is publicly available at <https://web.archive.org/web/20240708235647/https://lifewise.org/curriculum/> (last accessed Sept. 23, 2024).

Exhibit 2 is an archived copy of <https://lifewise.org/curriculum/>, the “Inside the LifeWise Curriculum” page within the “About” section of the LifeWise website, as it appeared on July 30, 2024. The copy of this webpage attached hereto as Exhibit 2 was captured on July 30, 2024 by the Wayback Machine. The archived copy of this page is publicly available at <https://web.archive.org/web/20240730103032/https://lifewise.org/curriculum/> (last accessed Sept. 23, 2024).

Exhibits 1 and 2 are archived copies of <https://lifewise.org/curriculum/>, the “Inside the Curriculum” webpage page of LifeWise’s website. In its Brief in Response to Defendant’s Motion to Dismiss, LifeWise requests judicial notice of a “curriculum review request” form located at <https://lifewise.tfaforms.net/4972189>, and linked to from the “Inside the Curriculum” page. Exhibits 1 and 2 support Defendant’s opposition to Plaintiff’s request for judicial notice of the “Inside the Curriculum” page by showing that the page Plaintiff cites to was posted after its Complaint was filed.

Exhibits 1 and 2 are properly subject to judicial notice for this limited purpose because they are accurate and not subject to reasonable dispute as records of what appeared on that page on the dates captured. Fed. R. Evid. 201; *see also Valve Corp. v. Ironburg Inventions Ltd.*, 8 F.4th 1364, 1374–75 (Fed. Cir. 2021); *Hepp v. Ultra Green Energy Servs., LLC*, No. 13 C 4692, 2016 WL 1073070, at *2, *2 n.1 (N.D. Ill. Mar. 18, 2016).

Exhibits 1 and 2 are also judicially noticeable because LifeWise cited to its website in its brief, and “the statements at issue are [LifeWise’s] own assertions, not potentially unfamiliar information posted on third-party websites.” *Goplin v. WeConnect, Inc.*, 893 F.3d 488, 491 (7th Cir. 2018). Accordingly, the Court should take judicial notice of Exhibits 1 and 2 for the limited purpose of opposing LifeWise’s request for judicial notice.

Dated: September 23, 2024

Respectfully submitted,

s/ Corynne McSherry

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of September, 2024, I caused the foregoing to be filed electronically with the Clerk of Court using the CM/ECF system, which shall provide notification by email of such filing to all counsel of record.

s/ Corynne McSherry
Corynne McSherry